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WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2605

(By Delegates Proudfoot, Kominar,
Staton and Mezzatesta)



Passed February 15, 2000

In Effect Ninety Days from Passage

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COMMITTEE SUBSTITUTE

FOR

H. B. 2605

(BY DELEGATES PROUDFOOT, KOMINAR,
STATON AND MEZZATESTA)

[Passed February 15, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to concealed weapons licensing; limiting licenses to pistols and revolvers; changing the age requirement for obtaining a concealed weapon license from eighteen to twenty-one years of age and creating exceptions thereto; requiring sheriffs to provide duplicate license; and providing that sheriffs shall issues permits within a specified time period and only upon qualification.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

1 (a) Except as provided in subsection (h) of this section, any
2 person desiring to obtain a state license to carry a concealed
3 deadly weapon shall apply to the sheriff of his or her county for
4 such license, and shall pay to the sheriff, at the time of applica-
5 tion, a fee of sixty dollars. Concealed weapons permits may
6 only be issued for pistols or revolvers. Each applicant shall file
7 with the sheriff, a complete application, as prepared by the
8 superintendent of the West Virginia state police, in writing,
9 duly verified, which sets forth only the following licensing
10 requirements:

11 (1) The applicant’s full name, date of birth, social security
12 number and a description of the applicant’s physical features;

13 (2) That, on the date the application is made, the applicant
14 is a bona fide resident of this state and of the county in which
15 the application is made and has a valid driver’s license or other
16 state-issued photo identification showing such residence;

17 (3) That the applicant is twenty-one years of age or older:
18 *Provided*, That any individual who is less than twenty-one years
19 of age and possesses a properly issued concealed weapons
20 license as of the effective date of this article shall be licensed to
21 maintain his or her concealed weapons license notwithstanding
22 the provisions of this section requiring new applicants to be at
23 least twenty-one years of age: *Provided, however*, That upon a
24 showing of any applicant who is eighteen years of age or older
25 that he or she is required to carry a concealed weapon as a
26 condition for employment, and presents satisfactory proof to the
27 sheriff thereof, then he or she shall be issued a license upon
28 meeting all other conditions of this section. Upon discontinu-
29 ance of employment that requires the concealed weapons
30 license, if the individual issued the license is not yet twenty-one
31 years of age, then the individual issued the license is no longer
32 eligible and must return his or her license to the issuing sheriff;

33 (4) That the applicant is not addicted to alcohol, a con-
34 trolled substance or a drug, and is not an unlawful user thereof;

35 (5) That the applicant has not been convicted of a felony or
36 of an act of violence involving the misuse of a deadly weapon;

37 (6) That the applicant has no criminal charges pending and
38 is not currently serving a sentence of confinement, parole,
39 probation or other court-ordered supervision, because of a
40 charge of domestic violence as provided for in section twenty-
41 eight, article two of this chapter, or is the subject of a restrain-
42 ing order as a result of a domestic violence act as defined in that
43 section, or because of a verified petition of domestic violence
44 as provided for in article two-a, chapter forty-eight of this code
45 or is subject to a protective order as provided for in that article;

46 (7) That the applicant is physically and mentally competent
47 to carry such weapon;

48 (8) That the applicant has not been adjudicated to be
49 mentally incompetent;

50 (9) That the applicant has qualified under the minimum
51 requirements set forth in subsection (d) of this section for
52 handling and firing such weapon: *Provided*, That this require-
53 ment shall be waived in the case of a renewal applicant who has
54 previously qualified;

55 (10) That the applicant authorizes the sheriff of the county,
56 or his or her designee, to conduct an investigation relative to the
57 information contained in the application.

58 (b) The sheriff shall conduct an investigation which shall
59 verify that the information required in subdivisions (1), (2), (3),
60 (5), (6), (8) and (9), subsection (a) of this section are true and
61 correct.

62 (c) The sixty-dollar application fee and any fees for
63 replacement of lost or stolen licenses received by the sheriff
64 shall be deposited by the sheriff into a concealed weapons
65 license administration fund. Such fund shall be administered by
66 the sheriff and shall take the form of an interest bearing account
67 with any interest earned to be compounded to the fund. Any
68 funds deposited in this concealed weapon license administration
69 fund are to be expended by the sheriff to pay for the costs

70 associated with issuing concealed weapons licenses. Any
71 surplus in the fund on hand at the end of each fiscal year may
72 be expended for other law-enforcement purposes or operating
73 needs of the sheriff's office, as the sheriff may deem appropri-
74 ate.

75 (d) All persons applying for a license must complete a
76 training course in handling and firing a handgun. The successful
77 completion of any of the following courses fulfills this training
78 requirement:

79 (1) Any official national rifle association handgun safety or
80 training course;

81 (2) Any handgun safety or training course or class available
82 to the general public offered by an official law-enforcement
83 organization, community college, junior college, college or
84 private or public institution or organization or handgun training
85 school utilizing instructors duly certified by such institution;

86 (3) Any handgun training or safety course or class con-
87 ducted by a handgun instructor certified as such by the state or
88 by the national rifle association;

89 (4) Any handgun training or safety course or class con-
90 ducted by any branch of the United States military, reserve or
91 national guard.

92 A photocopy of a certificate of completion of any of the
93 courses or classes or an affidavit from the instructor, school,
94 club, organization or group that conducted or taught said course
95 or class attesting to the successful completion of the course or
96 class by the applicant or a copy of any document which shows
97 successful completion of the course or class shall constitute
98 evidence of qualification under this section.

99 (e) All concealed weapons license applications must be
100 notarized by a notary public duly licensed under article four,
101 chapter twenty-nine of this code. Falsification of any portion of
102 the application constitutes false swearing and is punishable
103 under the provisions of section two, article five, chapter sixty-
104 one of this code.

105 (f) If the information in the application is found to be true
106 and correct, the sheriff shall issue a license. The sheriff shall
107 issue or deny the license within forty-five days after the
108 application is filed if all required background checks authorized
109 by this section are completed.

110 (g) Before any approved license shall be issued or become
111 effective, the applicant shall pay to the sheriff a fee in the
112 amount of fifteen dollars which the sheriff shall forward to the
113 superintendent of the West Virginia state police within thirty
114 days of receipt. Any such license shall be valid for five years
115 throughout the state, unless sooner revoked.

116 (h) All persons holding a current and valid concealed
117 weapons license as of the sixteenth day of December, one
118 thousand nine hundred ninety-five, shall continue to hold a
119 valid concealed weapons license until his or her license expires
120 or is revoked as provided for in this article: *Provided*, That all
121 reapplication fees shall be waived for applications received by
122 the first day of January, one thousand nine hundred ninety-
123 seven, for any person holding a current and valid concealed
124 weapons license as of the sixteenth day of December, one
125 thousand nine hundred ninety-five, which contains use restric-
126 tions placed upon the license as a condition of issuance by the
127 issuing circuit court. Any licenses reissued pursuant to this
128 subsection will be issued for the time period of the original
129 license.

130 (i) Each license shall contain the full name, social security
131 number and address of the licensee and a space upon which the
132 signature of the licensee shall be signed with pen and ink. The
133 issuing sheriff shall sign and attach his or her seal to all license
134 cards. The sheriff shall provide to each new licensee a duplicate
135 license card, in size similar to other state identification cards
136 and licenses, suitable for carrying in a wallet, and such license
137 card is deemed a license for the purposes of this section.

138 (j) The superintendent of the West Virginia state police
139 shall prepare uniform applications for licenses and license cards
140 showing that such license has been granted and shall do any

141 other act required to be done to protect the state and see to the
142 enforcement of this section.

143 (k) In the event an application is denied, the specific
144 reasons for the denial shall be stated by the sheriff denying the
145 application. Any person denied a license may file, in the circuit
146 court of the county in which the application was made, a
147 petition seeking review of the denial. Such petition shall be
148 filed within thirty days of the denial. The court shall then
149 determine whether the applicant is entitled to the issuance of a
150 license under the criteria set forth in this section. The applicant
151 may be represented by counsel, but in no case shall the court be
152 required to appoint counsel for an applicant. The final order of
153 the court shall include the court's findings of fact and conclu-
154 sions of law. If the final order upholds the denial, the applicant
155 may file an appeal in accordance with the rules of appellate
156 procedure of the supreme court of appeals.

157 (l) In the event a license is lost or destroyed, the person to
158 whom the license was issued may obtain a duplicate or substi-
159 tute license for a fee of five dollars by filing a notarized
160 statement with the sheriff indicating that the license has been
161 lost or destroyed.

162 (m) The sheriff shall, immediately after the license is
163 granted as aforesaid, furnish the superintendent of the West
164 Virginia state police a certified copy of the approved applica-
165 tion. It shall be the duty of the sheriff to furnish to the superin-
166 tendent of the West Virginia state police at any time so re-
167 quested a certified list of all such licenses issued in the county.
168 The superintendent of the West Virginia state police shall
169 maintain a registry of all persons who have been issued
170 concealed weapons licenses.

171 (n) All licensees must carry with them a state-issued photo
172 identification card with the concealed weapons license when-
173 ever the licensee is carrying a concealed weapon. Any licensee
174 who fails to have in his or her possession a state-issued photo
175 identification card and a current concealed weapons license
176 while carrying a concealed weapon shall be guilty of a misde-

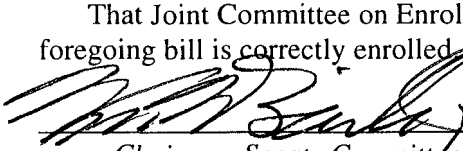
177 meanor and, upon conviction thereof, shall be fined not less
178 than fifty or more than two hundred dollars for each offense.


179 (o) The sheriff shall deny any application or revoke any
180 existing license upon determination that any of the licensing
181 application requirements established in this section have been
182 violated by the licensee.

183 (p) No person who is engaged in the receipt, review or in
184 the issuance or revocation of a concealed weapon license shall
185 incur any civil liability as the result of the lawful performance
186 of his or her duties under this article.

187 (q) Notwithstanding the provisions of subsection (a) of this
188 section, with respect to application by a former
189 law-enforcement officer honorably retired from agencies
190 governed by article fourteen, chapter seven; article fourteen,
191 chapter eight; article two, chapter fifteen; and article seven,
192 chapter twenty of this code, an honorably retired officer is
193 exempt from payment of fees and costs as otherwise required
194 by this section, and the application of the honorably retired
195 officer shall be granted without proof or inquiry by the sheriff
196 as to those requirements set forth in subdivision (9), subsection
197 (a) of this section, if the officer meets the remainder of the
198 requirements of this section and has the approval of the
199 appropriate chief law-enforcement officer.

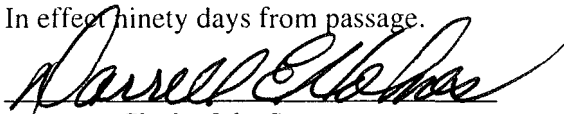
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

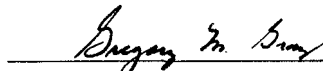

Chairman Senate Committee

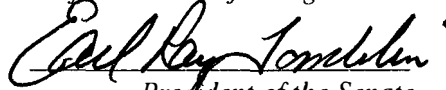

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

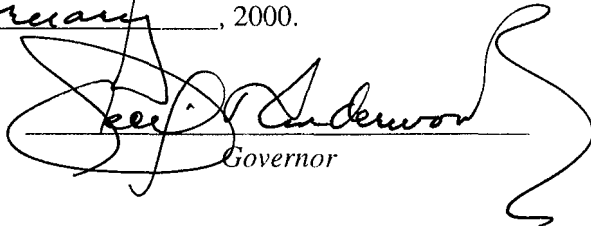

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 24th
day of February, 2000.


Governor

PRESENTED TO THE
GOVERNOR

Date 2/18/00

Time 4:16 pm